



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,614	09/25/2003	Frederick M. Discenzo	03AB070/ALBRP325US	6779

7590 11/08/2005

Susan M. Donahue  
Rockwell Automation  
704-P, IP Department  
1201 South 2nd Street  
Milwaukee, WI 53204

EXAMINER


FRANK, RODNEY T

ART UNIT	PAPER NUMBER
----------	--------------

2856

DATE MAILED: 11/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/670,614	<b>Applicant(s)</b> DISCENZO, FREDERICK M.	
	<b>Examiner</b> Rodney T. Frank	<b>Art Unit</b> 2856	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 August 2005.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17, 19-44 and 46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-17, 19-33, 42-44 and 46 is/are allowed.
- 6) ☒ Claim(s) 34, 37 and 40 is/are rejected.
- 7) ☒ Claim(s) 35, 36, 38, 39 and 41 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 34, 37, and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by Chaney (U.S. Patent Number 3,273,394). Chaney discloses a depth thermometer capable of measuring the temperature at some distance below the surface of a body of liquid (See the first paragraph of the patent in column 1, lines 7 through 10).

In regard to claim 34, Chaney discloses and shows in figures 1 through 4, a method that facilitates real-time measurement of a fluid comprising immersing a casing (12) within a fluid, wherein the casing comprises a plurality of apertures (20, 22) that can be opened and closed and the fluid is within one of a flow line and a reservoir opening the apertures to enable a sample of fluid to enter the casing; closing the apertures to confine the sample of fluid within the casing (see column 2, lines 33 through 38 and column 3 lines 3 through 37); and measuring at least one parameter of the sample of fluid (temperature with thermometer).

In regard to claim 37, the measured parameter is disclosed to be temperature.

In regard to claim 40, it is disclosed that the membrane serves as a valve, thus a valve allows entry and exit of a port it is serving as a valve for, thus the valve for vents 20 would be used to flush the device.

***Response to Arguments***

3. Applicant's arguments, see the response, filed 24 August 2005, with respect to the rejection(s) of claim(s) 1-46 under 35 USC 112, 102, and 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn.

However, upon further consideration, a new ground(s) of rejection is made in view of the Chaney reference for claims 34, 37, and 40, as explained in detail above since the claim language only calls for a measurement.

***Allowable Subject Matter***

4. Claims 35, 36, 38, 39, and 41 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. The following is a statement of reasons for the indication of allowable subject matter: The prior art does not disclose automatically altering the volume of the fluid within the flow line or the reservoir, providing a working electrode, or injecting an additive into the confined sample and oxidizing the confined fluid, in combination with the device of claim 34.

6. Claims 1-17, 19-33, 42-44, and 46 are allowed.

7. The following is a statement of reasons for the indication of allowable subject matter: A device with a three electrode system that facilitates measurement of oxidation levels of the sample fluid, in combination with all other limitations of claim 1 is not disclosed nor deemed obvious in view of the prior art of record. Further, the method for reducing oxidation levels in a fluid, comprising the various steps in method claim 42, is

Art Unit: 2856

not disclosed nor deemed obvious in view of the prior art of record. Further still, a system that facilitates fluid maintenance whereby there is a means for reducing oxidations levels in the sample fluid, in combination with all other means in claim 44 is not disclosed nor deemed obvious in view of the prior art of record.


**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney T. Frank whose telephone number is (571) 272-2193. The examiner can normally be reached on M-F 9-5:30 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron E. Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RTF  
November 4, 2005

  
HEZRON WILLIAMS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800